

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

,)	CASE NO.
)	
Plaintiff(s),)	
)	MAGISTRATE JUDGE
vs.)	GREG WHITE
)	
,)	
)	CIVIL TRIAL ORDER
Defendant(s).)	

PRETRIAL CONFERENCE

The Final Pretrial is scheduled for **(day/date/time [three weeks prior to trial])**, before the Honorable Greg White, United States Magistrate Judge, at the Carl B. Stokes United States Courthouse, Chambers 11B, 801 West Superior Avenue, Cleveland, Ohio. Lead trial counsel for all parties shall be present and prepared with full authority to discuss all aspects of the case, including pleadings, settlement and scheduling. Parties shall attend in person unless counsel has requested and received prior approval from the Court for a party to attend by telephone. Parties attending by telephone must be readily available at all times during the conference.

TRIAL

The Trial of this action will commence on **(day/date)**. The trial day will begin promptly

at **9:00 a.m.** and will conclude at approximately **4:30 p.m.** Counsel's cooperation in keeping in contact with Ms. Stacey Swonger, the Courtroom Deputy, as to the trial of this matter will aid the Court, the parties, and the witnesses involved. **Ms. Swonger may be reached at (216) 357-7135 or at Stacey_Swonger@ohnd.uscourts.gov.**

The following instructions will govern the operation of the trial and the obligations of parties and their counsel:

1. Trial Briefs

Trial briefs are required in all cases and must be filed with the Court, no later than seven (7) days before the Final Pretrial. If a Final Pretrial is not scheduled, trial briefs must be filed seven (7) days before trial. Trial briefs shall include: (a) a statement of the facts; (b) a discussion of the controlling law with particular emphasis on those legal issues which might justify a complete or partial motion under Rule 50 of the Federal Rules of Civil Procedure; (c) a list of proposed witnesses along with a brief description of the anticipated testimony of each witness (upon counsel's request, such description will be kept confidential); (d) an index of all proposed exhibits containing a brief description of each exhibit; (e) a discussion of any evidentiary issues likely to arise at trial; and (f) an estimate of the length of the trial.

If a witness is not listed in the trial brief, the witness shall not testify except under extraordinary circumstances. This rule applies to lay witnesses as well as to expert witnesses. Exhibits not listed in the trial brief shall not be introduced at trial, absent a showing of good cause.

Motions in Limine regarding legal issues of importance, including evidentiary ones which have not previously been resolved, shall be filed with the trial brief. Responses to Motions in

Limine shall be filed three (3) days prior to the Final Pretrial.

Trial briefs shall include any proposed voir dire questions and jury instructions as outlined in sections 2 and 3 below. Counsel are required to exchange their trial briefs with opposing counsel.

2. Voir Dire

The Court will conduct initial voir dire of the panel and of individual panel members. The Court will thereafter allow one counsel for each party to question briefly individual panel members on relevant issues not addressed by the Court.

Proposed questions for the Court's voir dire are to be submitted with the trial brief.

3. Proposed Jury Instructions

Counsel for the various parties are required to confer with one another in person with respect to proposed jury instructions, with a view to reaching agreement on instructions to be requested.

One set of jury instructions shall be filed by the parties at the same time trial briefs are due, identifying those instructions agreed upon by all counsel with supporting legal authority. For those instructions in dispute, the party proposing the instruction must state supporting reasons and legal authority, and the party objecting to the instruction must state opposing reasons and legal authority.

No proposed jury instruction will be considered by the Court unless it has been submitted in compliance with these provisions, except that requests for instructions that could not reasonably have been anticipated may be submitted during trial.

Counsel must also provide the agreed upon jury instructions via email to Ms. Swonger.

4. Preliminary Statements and Stipulations

Counsel shall prepare a joint statement describing the case in an impartial, easily understood and concise manner for use by the Court either during voir dire or at the time the jury is impaneled. This statement will be used to set the context of the trial for the jury and must be submitted at the same time the trial brief is submitted.

Stipulations of Fact, if any, shall be submitted at the same time as part of the same document.

5. Witnesses

By 4:00 p.m. on the last business day before trial, and by the close of Court each day thereafter, the counsel conducting witness examinations on the following trial day shall provide the Court and opposing counsel with a list of those witnesses he or she anticipates calling the next day. It is counsel's responsibility to ensure that enough witnesses are present to fill the entire trial day.

6. Exhibits

Two (2) copies of all exhibits shall be furnished to the Court on the day of trial. There is no need to file the exhibits with the Clerk of Courts. Counsel shall exchange copies of all exhibits no later than two (2) working days before the day of trial.

Exhibits shall be marked before trial with exhibit stickers, which are available from the Clerk's office on request. The plaintiff shall mark exhibits with numbers and the defendants shall mark exhibits with letters. Both sides are to indicate the case number on the bottom portion of the exhibit sticker. If there are multiple parties, the parties last name should precede the number

or letter (i.e., "Smith-1" or "Green-A"). If the parties have a joint exhibit it shall be marked as "Jt. Ex. 1" or "Jt. Ex. 2" etc. If the defendant has more than 26 exhibits, double letters shall be used (i.e., AA, BB, CC, etc.).

The Court recommends that counsel place all exhibit sets in three-ring, looseleaf binders/notebooks, with appropriately marked divider tabs and a table of contents at the front.

7. Deposition Testimony (Videotape and Written)

Whenever depositions (videotape and written) are intended to be used as evidence at trial, counsel proposing to use such deposition shall notify opposing counsel in the trial brief. Any objections to portions of the deposition must be filed in writing with the Court at least five (5) days prior to Trial. If there are objections, counsel proposing to use said deposition shall file a brief in support within three (3) days after the objections are filed or indicate an agreement to delete the portion for which there is an objection. The Court must be provided with a complete written transcript of videotape depositions.

8. Jurors Conduct During Trial

The Court will generally allow jurors to take notes.

9. Objections

At trial, counsel shall not make speaking objections in the presence of the jury. Counsel may state an objection in the presence of the jury with only a one or two word legal reason stating the ground, *e.g.*, "hearsay," "relevance," "foundation."

10. Use of Electronic Courtroom

Counsel shall submit a request to Ms. Swonger to use an electronic courtroom at least sixty (60) days prior to trial because the availability cannot be assured. Because mishaps can

occur with the electronic equipment, counsel shall be prepared at all times to proceed without the use of the electronic equipment. The court will not postpone trial in the event of an electronic equipment failure. Evidence which a party intends to introduce electronically at any time during trial shall be disclosed to the court and opposing counsel at least ten (10) days before trial.

11. Non-Jury Cases

In all non-jury cases, counsel for each of the parties shall prepare Proposed Findings of Fact and Conclusions of Law, which shall be filed with the Court not later than three (3) business days prior to the final pretrial. Plaintiff's Conclusions of Law shall include a statement of the applicable statute conferring jurisdiction upon the Court. Proposed Findings of Fact and Conclusions of Law shall be consecutively numbered with each finding and conclusion stated in a separate paragraph. The proposed Findings of Fact shall cite the particular witness(es) or exhibit(s) upon which each suggested finding is based; proposed Conclusions of Law shall cite legal authority. In addition, Proposed Findings of Fact and Conclusions of Law shall also be emailed to Ms. Swonger.

12. Continuances

No party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance endorsed in writing by all moving parties and their lead counsel of record. The Court will not consider any motion for a continuance due to a conflict of trial assignment dates unless a copy of the conflicting assignment is attached thereto.

13. Settlement

Counsel are required to notify the courtroom deputy immediately if the parties reach a

settlement in the case. Failure to give timely notice may result in imposition of sanctions and/or payment of jury costs.

IT IS SO ORDERED.

DATED: _____

s/Greg White
GREG WHITE
United States Magistrate Judge